

Message Text

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46

ORIGIN EB-07

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DRAFTED BY: EB/AN: AJRIMAS:DAP

APPROVED BY: EB/OA: MHSTYLES

CAB: CCOLDREN

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----- 045210

R 262212Z MAR 75

FM SECSTATE WASHDC

TO AMEMBASSY BRASILIA

INFO AMCONSUL RIO DE JANEIRO

AMCONSUL SAO PAULO

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C O R R E C T E D C O P Y (PARA 2 LINE 13 OMITTED)

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E.O. 11652:N/A

TAGS: EAIR, BR

SUBJECT: CIVAIR: PAN AM CHANGE OF GAUGE

REF: BRASILIA 2152

1. DEPARTMENT WISHES TO PROCEED WITH NOTE. TEXT APPEARS
PARA2 BELOW. NOTE HAS BEEN REVISED TO TAKE INTO ACCOUNT
POINTS MADE BY EMBASSY.

2. "...AND HAS THE HONOR TO REFER TO THE AIR TRANSPORT
SERVICES AGREEMENT OF 1946 BETWEEN THE UNITED STATES OF
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AMERICA AND THE GOVERNMENT OF BRAZIL, AS AMENDED, AND

THE 1968 FINAL ACT. THE EMBASSY OF THE UNITED STATES OF AMERICA HAS BEEN INFORMED THAT THE DEPARTAMENTO DE AIRACAO CIVIL ON FEBRUARY 24, 1975 REJECTED THE APPLICATION OF PAN AMERICAN WORLD AIRWAYS TO REVISE SOME OF ITS SCHEDULES SO AS TO INTRODUCE A DIFFERENT SIZE AIRCRAFT ("CHANGE OF GAUGE") IN RIO DE JANEIRO FOR THE ONWARD CARRIAGE OF INTERNATIONAL TRAFFIC TO CONGONHAS AIRPORT IN SAO PAULO. THE EMBASSY UNDERSTANDS THAT ONE OF THE REASONS GIVEN FOR THIS REJECTION WAS THE POLICY THAT CONGONHAS AIRPORT IS NOT OPEN TO LONG-HAUL INTERNATIONAL AIRLINE SERVICE. THE EMBASSY WAS ALSO INFORMED THAT APPROPRIATE BRAZILIAN AUTHORITIES HAVE

TAKEN FORMAL MEASURES TOWARD THE TERMINATION OF ALL EXISTING INTERNATIONAL FLIGHTS TO AND FROM CONGONHAS AS SOON AS POSSIBLE.

"THE EMBASSY AGREES THAT AT SUCH TIME AS INTERNATIONAL FLIGHTS NO LONGER SERVE CONGONHAS, PAN AMERICAN WOULD HAVE NO BASIS FOR ITS APPLICATION TO IMPLEMENT THE PROPOSED CHANGE OF GAUGE. HOWEVER, THE EMBASSY NOTES THAT VARIG IS CONTINUING TO OFFER FOR THE TIME BEING THE IDENTICAL TYPE OF SERVICE REJECTED FOR PAN AMERICAN. PRESUMABLY, VARIG WILL OPERATE THIS SERVICE UNTIL ITS INTERNATIONAL OPERATIONS AT CONGONHAS ARE TRANSFERRED TO VIRACOPOS AIRPORT. TAKING INTO ACCOUNT THE LOGISTICAL DIFFICULTIES WHICH SUCH MOVES NORMALLY ENTAIL, THE EMBASSY CAN ENVISION THAT THE MOVE WOULD NOT BE COMPLETED FOR A CONSIDERABLE PERIOD OF TIME.

"THROUGH THE ACCESS OF ITS INTERNATIONAL FLIGHTS TO CONGONHAS, VARIG CLEARLY ENJOYS A COMPETITIVE ADVANTAGE OVER PAN AMERICAN IN CARRYING INTERNATIONAL TRAFFIC BETWEEN RIO DE JANEIRO AND SAO PAULO. THE EMBASSY IS THEREFORE CONCERNED THAT PAN AMERICAN MAY BE DEPRIVED OF A "FAIR AND EQUAL OPPORTUNITY" TO OPERATE ON THE ROUTES SPECIFIED IN THE ROUTE SCHEDULE TO THE AGREEMENT OF 1946, AS PROVIDED FOR IN PARA 1 OF THE "PROTOCOL OF SIGNATURE" TO THE FINAL AGREEMENT. AS LONG AS OTHER AIRLINES, SUCH AS VARIG, MAY OPERATE INTERNATIONAL FLIGHTS INTO CONGONHAS, EVEN IF FOR NO MORE THAN SEVERAL LIMITED OFFICIAL USE

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MONTHS, THE SITUATION WILL CONTINUE TO BE INEQUITABLE AND INCONSISTENT WITH PARA 1 OF THE PROTOCOL OF SIGNATURE OF THE AIR TRANSPORT AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF BRAZIL (HEREINAFTER "THE AGREEMENT").

"THE UNITED STATES GOVERNMENT IS FURTHER OF THE VIEW THAT TO DEPRIVE PAN AM OF THE RIGHT TO REVISE ITS SCHEDULES AS

PROPOSED INCLUDING MAKING A CHANGE OF GAUGE IS A VIOLATION OF SECTION VI OF THE AGREEMENT AND THE ROUTE SCHEDULE OF DECEMBER 10, 1968, AMENDING THE AGREEMENT, TAKING INTO ACCOUNT THAT THE ROUTE SCHEDULE PERMITS SERVICE ON THE DESIGNATED ROUTES IN BOTH DIRECTIONS (PARA A) AND PERMITS ANY POINT OR POINTS ON ANY ROUTE OR ROUTES CONTAINED IN THE ROUTE SCHEDULE TO BE OMITTED IN EITHER OR IN BOTH DIRECTIONS AT THE OPTION OF THE AIRLINE DESIGNATED TO OPERATE SUCH ROUTE OR ROUTES (PARA C).

"IN ADDITION, THE UNITED STATES GOVERNMENT REGARDS THE PROHIBITION OF PAN AMERICAN INTERNATIONAL SERVICE TO

CONGHAS WHILE ENGAGED IN BY VARIG TO BE INCONSISTENT WITH ARTICLE 15 OF THE CONVENTION ON INTERNATIONAL CIVIL AVIATION.

"THE EMBASSY OF THE UNITED STATES OF AMERICA ACCORDINGLY REQUESTS THAT THE MINISTRY OF FOREIGN AFFAIRS CONVEY TO THE APPROPRIATE BRAZILIAN CIVIL AVIATION AUTHORITIES THE US VIEWS THAT PENDING THE ACTUAL SUSPENSION OF ALL INTERNATIONAL FLIGHTS TO CONGONHAS, PAN AMERICAN SHOULD BE ALLOWED TO OPERATE ITS PROPOSED SCHEDULES TO THAT AIRPORT.

"COMPLIMENTARY CLOSE." KISSINGER

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